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ABSTRACT

The paper takes the position that the study and understanding of the United States Constitution should be a critical part of citizenship education, especially as its Bicentennial approaches. Several factors suggest that the Constitution has become the most durable document of its kind in history, and that its teaching should be centered in both the school and the community. It is proposed that the teaching of citizenship education could be addressed through three topics: (1) principles, including federalism, separation of powers, checks and balances, the concept of limited government, and the distinction between a democracy and a republic; (2) issues, including judicial review, the power struggle between states and the national government, civil liberties, changing the document, and other controversial subjects; and (3) values, such as representative government, respect for rights, divided responsibilities, and tradition. (TRS)

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THE CONSTITUTION AND CITIZENSHIP EDUCATION

by

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THE CONSTITUTION AND CITIZENSHIP EDUCATION

by Rebecca S. Shoemaker

The Constitution of the United States will be honored in 1987 with parades, speeches, parties, and an untold number of printed words. Before we are caught up in the hype and the media coverage, perhaps it is well to stop and ask ourselves why the American people consider the 200th anniversary of this document a cause for celebration. The reasons why these activities are warranted are also the reasons every citizen of the United States should read, understand, and learn to discuss intelligently the Constitution and the heritage it has provided.

The Constitution, its creation, and continued tradition of enduring strength are noteworthy for several reasons. First of all, it is the tangible symbol of a system of government, a set of values we hold dear. We can visit the National Archives and view the original copy preserved under glass. We can study about the lives and times of the men who wrote the document. We can read Madison's notes on the Constitutional Convention and have a sense of what it was like to participate in the debates and compromises which led to the final work. All of these experiences help us come to an understanding of the Constitution itself, what it is, and how it came into being.

We can consider the uniqueness of this document as the basis for the creation of a government. At the time it was written, the Constitution could truly be said to be revolutionary. Although the tradition of written compacts, charters, and other similar papers as a basis for government was a long one in the American colonies, it was something new to the rest of the world. How, people asked, could a group of men in 1787 sum up in a few pages a framework for a government that would be durable, yet flexible enough to withstand the unknown attacks and controversies in which it would become embroiled in future decades? But the people whose heritage included the Mayflower Compact, a variety of colonial charters, the Fundamental Orders of Connecticut. Penn's plan of government, and numerous other documents, culminating with the Declaration of Independence, knew the value of expressing ideals and intentions in the written word.

The government created by the Constitution could also be said to be revolutionary. Although there was a long tradition of public participation in government both here and in some of the countries of Europe, no one had ever tried, or even believed it possible, to establish a government of this type. It was a daring experiment to create a representative government to tie together a country that stretched nearly a thousand miles along the coast, and whose inward expansion was as yet undetermined. Would the diverse peopples and state governments cooperate? Could the recalcitrance and outright opposition

experienced by those who had tried to govern under the Articles of Confederation be overcome?

In addition, the government could be considered experimental because it incorporated bits and pieces of political philosophy that had been espoused by writers such as Locke and Montesquieu, but that had never really been tested. Would the concepts of separation of powers, checks and balances, and wide political participation by the general public really work? The Founding Fathers have been revered as men a little larger than life because of their wisdom and vision, but we must admit that they were also daring and perhaps even a little foolhardy to devise such a scheme and actually put it into operation.

The Constitution is special because of the careful system of compromises and safeguards embodied in it to ensure its workability. Numerous times during the Constitution Convention the delegates split into factions who appeared determined to forfeit all that had been accomplished rather than give in on an issue of vital importance to them. But each time a compromise was reached. Some were more realistic and workable than others, but each evidenced the group's desire to produce a document that would survive the tests it ultimately must face. Questions of representation, of apportionment of slaves, and of import and export taxes had been resloved by a process of give and take that salved the concerns and egos of those involved. The most

important safeguards embodied in the Constitution, however, were the result of inadequacies discovered in the Articles of Confederation. Most noteworthy are the provisions for ratification and amendment. The document's authors knew that in order to survive the test of time, it must provide a reasonable means for alterations that would become necessary as new issues arose. This provision not only allowed for changes, but incorporated compromise by permitting approval by majorities rather than by unanimous consent. The guidelines for state-by-state ratification of the Constitution guaranteed that the document would function with the imprimatur of the citizenry, who would, it was hoped, be more inclined to support a document on which they had had at least some opportunity to pass judgement. This was also one reason for ratification by specially elected conventions rather than by state legislatures.

As a result of all these factors, the Constitution of the United States has become the most durable document of its kind in history. One scholar reports that nearly two thirds of all the constitutions operable in the world today were adopted since 1970, and only 14 pre-date World War II. The very fact that ours has remained not only alive, but vibrant and healthy as a functioning framework for government is cause for celebration.

Given that the Constitution is worthy of such recognition, it must follow that study and understanding of the document should be a critical part of citizenship education.

This process begins in the schools, but should be supported by a continuing commitment in the community. This is vital to the continued successful functioning of government under the Constitution.

The topic with which I was provided for this talk proposed that the teaching of citizenship education could be addresses through the topics of principles, issues, and values. Let us begin with some of the vital principles embodied in the Constitution.

The first aspect of the Constitution with which a student should be made thoroughly familiar is its contents. We continually hear supposedly well-educated citizens make confused statements about what the Constitution says on a particular topic, and perhaps even more frequently, confuse it with the Declaration of Independence or the Bill of Rights. There also seems to be a lack of understanding of the contents of the Preamble and its purpose. So, I suggest a thorough reading and study of the document and its provisions. In the course of this study the writings of revolutionary leaders, the published notes from the Constitutional Convention, the Federalist papers, and others writings and speeches of those involved in the ratification process, both pro and con, help us to understand and remember the various provisions of the document.

The document embodies certain key principles which were

included to achieve the kind of institution which leaders felt would provide the best government. The principle of federalism was critical. State leaders were concerned about the possible creation of an all-powerful national government that would entirely supersede state and local institutions. Their insistence that this not happen resulted in a distinct division of powers between state and national governments. Certain enumerated powers were reserved to each level of government by the provisions of the Constitution. Even this was not sufficient to provide all the safeguards some state leaders felt needed, however, and continuing controversy on the subject resulted in the ratification of the Tenth Amendment to the Constitution, repeated threats of secession or nullification of laws, and ultimately contributed to the causes of the Civil War.

Part of that persistent debate was no doubt engendered by the Consitution's statement that its provisions, treaties negotiated by the national government, and the laws passed by Congress were to be considered the supreme law of the land, any state actions or legislation notwithstanding. The requirement was the subject of great debate before its meaning was defined by the Supreme Court, and even today not every person agrees about the extent to which this "supremacy clause" should prevail. Nevertheless, this provision has been enforced repeatedly by the Supreme Court, in order to satisfy the perceived requirement that there be a locus of supremacy.

Other major principles included in the Constitution were the relatively untried concepts of separation of powers and checks and balances. The government of the United States was established with three major branches, each with a certain amount of independence, but each also having a carefully defined relationship with the other two. It was intended that no one part of the government should become sufficently powerful to exert tyrannical control over the other two branches or over the nation as a whole.

The idea of a limited government with only certain specific powers was a further characteristic of the new institution. The idea had originated in the writings of John Locke and other European philosophers, and had gained strength in colonial minds as a result both of attempts to govern themselves and of their troubled experiences in dealing with the British government prior to the Revolution. The resulting restrictions incorporated in the Constitution made a government simple in its beginnings, but with ample opportunity for revision and expansion as the need arose.

One other principle that should be noted here is the distinction between a democracy and a republic. The local town governments characteristic of New England provided examples of democracies, governments in which every voting citizen had an opportunity to participate. As the country became larger and the population increased, this style of rule became less practical.

A republic, as created by the Constitution, allowed indirect participation through elected representatives. A more practical way of achieving citizen involvement in a country which was large geographically, the republic was not a concept that everyone was happy with. In response to the doubts that were expressed, James Madison and others were among the first to argue convincingly that the success of this form of government was not necessarily related to the country's physical size.

In addition to the principles embodied in the Constitution, a second key to its study and understanding are major issues relating to its operation and interpretation over the years. These include both historical topics and the current questions which engage the minds and pens of judges, politicians, scholars, and the public. Let us look first at some of the key historic issues that everyone should know about and understand. First of all is the concept of judicial review. The idea that the Supreme Court should study a law and rule on its compatibility with the Constitution was not included in the original document, nor has it ever been made completely clear what the thoughts of the document's authors were on this subject. But beginning with John Marshall's opinion in Marbury v. Madison (1803), the United States Supreme Court has periodically exercised this power. Historians and legal scholars have, and continue to, debate the wisdom of the practice, but there can be little doubt that it is here to stay. It has been used frequently in the twentieth century, much to

the chagrin of those who fear it as a tool by which the Court can act to extend its power.

A second constitutional issue of enduring importance has been the struggle for power between the states and the national government. In the first half of the nineteenth century, states frequently attempted to strengthen their position by using the argument of state sovereignty, but this point was largely made moot by the results of the Civil War. In the twentieth century, the debate has continued in a slightly different form, couched in arguments about a division of power on such issues as education, apportionment, and taxation.

A constitutional topic which has come to flower almost entirely in the twentieth century, and based almost as much on the Bill of Rights as on the Constitution itself, is that of civil liberties, the rights of the individual as spelled out and guaranteed by the Constitution. The men who wrote the Constitution preferred to assume that these rights were protected by implication, but they were overruled by large numbers of the public who wanted to see their rights detailed in writing, and succeeded in having them made clear in the first ten amendments to the Constitution. The fear of some that if certain rights were enumerated, others would be forfeited by their exclusion, has never proven true. Controversy in the area of civil liberties has covered such diverse issues as freedom of speech, separation of church and state, freedom of

association, and the meaning and use of the Fifth Amendment's defense against self-incrinination. Many of these disputes cannot be permanently resolved, for they represent moral dilemmas and values on which the courts can, at best, reflect the opinions of only a segment of the population. Nevertheless, the public continues to look to them for guidance and leadership in such areas.

Throughout the history of the Constitution, statesmen, politicians, and the public at large have revelled in the opportunity to debate its strengths and shortcomings and to propose possible changes in the document. In reality, only a few changes have been made through amendment, but perhaps the knowledge that the potential for such change does exist has operated as a safety valve for those who, from time to time, have become disgruntled with the document and its interpretation. The present time is no different. Any student of the Constitution can furnish a list of proposed changes that have come before Congress and other legislative groups at various times over the years, along with the pros and cons concerning their adoption. A few weeks ago I attended a conference which gave ordinary citizens the opportunity to gather and debate proposed changes in the Constitution. The debate was spirited and generally well-informed, but I had the sense that, had we been asked to vote at the end of the conference on the desirability of incorporating the suggestions, none would have attained a respectable majority.

The topics we debated serve as characteristic examples of the kinds of changes frequently proposed. They included 1) the abolition of the electoral college as a means of choosing the President; (While amendments based on this suggestion have frequently been introduced in Congress by Senator Bayh and others, there are many who feel any change should be approached with caution. They are, I think, not so much wedded to the institution itself as they are concerned about the possible alternatives. 2) Limitations on the tenure of judges and provisions for periodic review of judicial performance. The issue here, I think, is not that the provisions of Article III have failed to provide a successful judicial system, but rather that people who disagree with specific court decisions would like to have a means of controlling or restricting the Court's independence in such matters. While this is a serious proposal, it is potentially a dangerous one, for we must consider the impact of possible curbs on the judiciary's strength and independence. 3) Line item veto for the President. This is seen as a means of speeding up action on bills, and allowing the President some measure of control over pork-barrel legislation. Unfortunately, its primary impact would be a radical shift in the balance of powers between the executive and legislative branches. One must ask himself, whatever his motive, whether the proposed change would be worthwhile in terms of its impact on the future of the federal government. 4) The means of amending the constitution -- should it be made easier? Should we work for a constitutional convention, and, if so, what should

the convention be allowed to consider? Can we, or should we, be allowed to limit the topics the convention could discuss? 5) Changing the Presidency to one six-year term instead of two four-year terms. What are the advantages and disadvantages? What issues should we consider before making such a change? 6) Should the members of the House of Representatives be allowed to have a four-year term, with limited seniority, and what would be the consequences if they did? All of these issues provide excellent material for debate in the classroom, and encourage the student to study and increase his knowledge and understanding of the Constitution.

I have not yet mentioned another category of constitutional issue -- those hot subjects which arouse a storm of controversy every time the courts even consider hearing a related case. They include such topics as the right to abortion, prayer in the public schools, and capital punishment. To my mind, these are constitutional issues which can never be completely resolved, because they are moral dilemmas on which all elements of society are unlikely to agree. For that reason, they are touchy subjects for the classroom and for public debate. I think that all citizens should be aware of the issues and understand the arguments on both sides of each question, especially the constitutional bases which have brought the questions to the courts in the first place. In other words, it is our responsibility to instill in students the knowledge necessary to form responsible opinions on these issues as

constitutional questions, not as moral problems or political hot potatoes.

Finally, there is the subject of values instilled in Americans by the Constitution. I think we have to search our minds for these because we have come to take many of them for granted. The Constitution has taught us the value of a sound representative form of government, in which almost every adult citizen has the opportunity to participate. It has demonstrated the value of respecting the rights and opinions of both majorities and minorities. The men who wrote the Constitution were concerned to create a government based on the will of the majority, but at the same time they wished it to take into consideration the interests of minorities. The Constitution has taught us the importance of a government with a system of divided responsibilities -- the separation of powers at the national level, and the divisions of responsiblities between national and state governments. It has taught us the value of tradition -- not to apreciate the document merely because of its longevity, but because it has been enduring and flexible enough to serve us well. It has weathered many crises, and the American people's confidence has enabled it to survive the impeachment of a president, the hysteria of the McCarthy era, and the trauma of a civil war. It has not always given us exactly what we want. There have been periods of frustration and disagreement over its viability. But it has survived in a strong healthy state. If is to continue to do so, we must assist

the process by thorough citizenship education in the meaning and importance of the Constitution. This is a project that should be carried on both in the classroom and in the community, and one that should extend far beyond the occasion of the celebration of the Constitution's bicentennial.